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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/497,071	02/02/2000	Linda I. Hoffberg-Borghesani	LIH-14	7065
10037	7590	04/19/2005	EXAMINER	
MILDE & HOFFBERG, LLP 10 BANK STREET SUITE 460 WHITE PLAINS, NY 10606			MA, JOHNNY	
			ART UNIT	PAPER NUMBER
			2614	

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Uth

Office Action Summary	Application No.		Applicant(s)	
	09/497,071		HOFFBERG-BORGHESANI ET AL.	
	Examiner		Art Unit	
	Johnny Ma		2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 155-173 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 155-173 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Please note that claims 165-174 have been renumbered 164-173 in accordance with 37 CFR

1.75(f), the claims are rejected accordingly.

Response to Arguments

1. Applicant's arguments with respect to claims 155-173 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 155-160, 162, and 164-165 are rejected under 35 U.S.C. 102(b) as being anticipated by Strubbe (US 5,223,924).

As to claim 155, note the Strubbe reference that discloses a system and method for automatically correlating user preferences with a T.V. program information database. The claimed “storing in a memory data describing available media” is met by “[i]n the embodiment herein, the TV program information data records downloaded as PID as described, for example, in the references incorporated herein” (Strubbe 4:17-21). The claimed “and storing data representing characteristics of media previously selected by a user” is met by “[m]emory section 54 is used to store as a second database, records selected from the first database which are indicated as ‘liked’ by the user... or ‘disliked’ by the user” (Strubbe 4:21-56) wherein “liked” can

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be indicated at the “option of the viewer, merely watching and/or recording a television program for longer than a given amount of time” (Strubbe 5:23-32) and the second database contains a text summary of each record stored (Strubbe 5:48-51). The claimed “performing a search of said available media for a correspondence to specific data representing said characteristics of programs media previously selected by said user” is met by “[e]ach stem in each ‘liked’ record is given a positive weight. Each stem in each ‘disliked’ show, which is not simultaneously a stem in a ‘liked’ show is given a negative weight. With these stems and weights a ‘simple query’ is performed over the records provided from the first database, i.e. the downloaded TV program database” (Strubbe 5:54-6:4). The claimed “notifying said user of available media having characteristics similar to characteristics of a previously selected media” is met by “[t]his third database, could be accessed by the viewer via remote control 42, in order to allow him to select for viewing, only preferred programs which correspond either to forthcoming programs stored in the second database and indicated as ‘liked’, or programs automatically selected from the first database in the interest matcher mode described in FIG. 5” (Strubbe 5:36-42).

As to claim 156, the claimed “wherein said media comprises television programs” is met by “a television transmission system which provides, along with television programming, updatable TV program information which can, for example, include text summaries of the television programs scheduled for the coming week” (Strubbe 1:57-61). The claimed “and said data describing available media comprises a channel guide list” is met by “[b]y accessing this database, the user can display ‘Future Programs’ as well as ‘Favorite Broadcast Programs’ using a system of advanced menus and displays and an expanded channel ring” (Strubbe 2:42-49).

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The claimed “and television program-descriptive text accompanies said channel guide list” is met by program “information can comprise title, channel, category, day, time, length, repeat rate etc., as well as summaries, ratings, recommendations and cost for each of the programs featured” (Strubbe 2:9-12). The claimed “included the further step of: performing a search of said television program descriptive text for a particular text string which relates to at least one of title, star, or context of said television program” is met by “[i]n a preferred embodiment, the processor utilizes ‘free text’ search techniques to correlate the TV program information with the viewer’s preferences” (Strubbe 1:67-2:2) wherein program “information can comprise title, channel, category, day, time, length, repeat rate etc., as well as summaries [context], ratings, recommendations and cost for each of the programs featured” (Strubbe 2:9-12).

As to claim 157, the claimed “wherein said step of notifying said user includes the step of producing a display including a list of the available media meeting a predetermined correspondence criteria on a display screen for viewing by the user” is met by access to third database as discussed in the rejection of claim 155.

As to claim 158, the claimed “further comprising a step of altering the produced display by a user using a data entry device” is met by the selection of a program for viewing (Strubbe 5:36-42).

As to claim 159, the claimed “further comprising the step of selecting on of the available media items displayed on the list of available media” is met by that discussed in the rejection of claim 158.

As to claim 160, the claimed “wherein said specific data representing said characteristics of television programs previously watched by said user includes at least one of topic, title, date

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and theme information” is met by the storing of record information in a second database (Strubbe 5:7-11) wherein program “information can comprise title, channel, category, day, time, length, repeat rate etc., as well as summaries, ratings, recommendations and cost for each of the programs featured” (Strubbe 2:9-12).

As to claim 162, note the Strubbe reference that discloses a system and method for automatically correlating user preferences with a T.V. program information database. The claimed “a controller for controlling delivery of media to a user” is met by CPU 50 (Strubbe 4:3-16). The claimed “at least one memory for storing a media guide comprising a data representing characteristics of media within a set of available media” is met by “[i]n the embodiment herein, the TV program information data records downloaded as PID as described, for example, in the references incorporated herein” (Strubbe 4:17-21). The claimed “[and storing] data representing characteristics of media previously presented to the user” is met by “[m]emory section 54 is used to store as a second database, records selected from the first database which are indicated as ‘liked’ by the user...or ‘disliked’ by the user” (Strubbe 4:21-56) wherein “liked” can be indicated at the “option of the viewer, merely watching and/or recording a television program for longer than a given amount of time” (Strubbe 5:23-32) and the second database contains a text summary of each record stored (Strubbe 5:48-51). The claimed “a processor for determining a correspondence between data representing characteristics of media in said media guide with data representing characteristics of media previously presented” is met by “CPU 50 is programmed to perform ‘free text’ search operations as detailed in the Stanfill and Kahle reference incorporated here, on data stored in one or more of the memory sections 52, 54 or 56” (Strubbe 4:13-16) wherein “the processor utilizes “free text” search techniques to

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correlate the TV program information with the viewer's preferences" (Strubbe 1:67-2:2) and the viewer's preferences comprise characteristics of media previously presented (Strubbe 4:59-5:32). The claimed "an producing a signal dependent on said correspondence" is met by "[t]his third database, could be accessed by the viewer via remote control 42, in order to allow him to select for viewing, only preferred programs which correspond either to forthcoming programs stored in the second database and indicated as 'liked', or programs automatically selected from the first database in the interest matcher mode described in FIG. 5" (Strubbe 5:36-42).

As to claim 164, the claimed "wherein said signal produces a list of choices for a user through a human user interface" is met by that discussed in the rejection of claim 162.

As to claim 165, the claimed "wherein a user interaction with said system serves as an input to an adaptive algorithm of said processor for determining said correspondence" is met by the collection of user interaction data by the system for determining programming corresponding to user preferences (Strubbe 5:7-6:19).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 161 and 163 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strubbe (US 5,223,924) in further view of Rauch et al. (US 5,731,844).

As to claim 161, the claimed “further comprising the step of displaying a list of available television programs, and receiving an input for recording a selected one of the available television programs.” Note the Strubbe reference discloses “[t]his third database, could be accessed by the viewer via remote control 42 in order to allow him to select for viewing, only preferred programs which correspond either to forthcoming programs stored in the second database...” (Strubbe 5:36-42. Further note the Strubbe reference discloses monitoring the viewer’s preferences by monitoring the programs viewed or recorded by viewers (Strubbe 5:23-32). However, the Strubbe reference does not specifically disclose “the step of displaying a list of available television programs, and receiving an input for recording a selected one of the available television programs.” Now note the Rauch et al. reference that discloses a television scheduling system for displaying a grid representing scheduled layout and selecting a programming parameter for display or recording. The claimed “further comprising the step of displaying a list of available television programs, and receiving an input for recording a selected one of the available television programs” is met by “[t]he user select a program to be recorded by selecting the program name of the program from the schedule layout” (Rauch 3:35-36). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Strubbe selection of programming for viewing from a list of available television programs with the Rauch et al. selection of programming for recording from a list of available television programs for the purpose of providing the user a convenient means for recording programming that they wish to view at a later time.

As to claim 163, the claimed “wherein said signal controls a recording of a program.” Note the Strubbe reference discloses “[t]his third database, could be accessed by the viewer via remote control 42 in order to allow him to select for viewing, only preferred programs which correspond either to forthcoming programs stored in the second database...” (Strubbe 5:36-42. Further note the Strubbe reference discloses monitoring the viewer’s preferences by monitoring the programs viewed or recorded by viewers (Strubbe 5:23-32). However, the Strubbe reference does not specifically disclose “wherein said signal controls a recording of a program.” Now note the Rauch et al. reference that discloses a television scheduling system for displaying a grid representing scheduled layout and selecting a programming parameter for display or recording. The claimed “wherein said signal controls a recording of a program” is met by “[t]he user select a program to be recorded by selecting the program name of the program from the schedule layout” (Rauch 3:35-36). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Strubbe selection of programming for viewing from a list of available television programs with the Rauch et al. selection of programming for recording from a list of available television programs for the purpose of providing the user a convenient means for recording programming that they wish to view at a later time.

6. Claim 166 is rejected under 35 U.S.C. 103(a) as being unpatentable over Strubbe (US 5,223,924).

As to claim 166, the claimed “wherein said at least one memory further stores information regarding at least two humans, wherein said signal is dependent on a defined set of humans.” Note the Strubbe reference discloses storing information regarding a human, wherein

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said signal is dependent on the human as discussed in the rejection of claim 162. However, the Strubbe reference does not specifically disclose storing information regarding at least two humans. Nevertheless, the examiner gives Official Notice that it is notoriously well known in the art to store information regarding more than one person for the purpose of providing relevant information to each particular person. Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Strubbe storing information regarding one person with the storage of information regarding multiple persons for the above stated advantage.

7. Claims 167-173 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strubbe (US 5,223,924) in further view of Lett et al. (US 5,592,551).

As to claim 167, the claimed "wherein said processor controls delivery of media in dependence on a financial transaction." Note the Strubbe reference discloses pay programming (Strubbe 2:12). However the Strubbe reference is silent as to how pay programming is paid for. Now note the Lett et al. reference that discloses a method and apparatus for providing interactive electronic programming guide. The claimed "wherein said processor controls delivery of media in dependence on a financial transaction" is met by providing the user, through a program guide, the option to purchase pay per view programming for viewing (Lett 3:1-8; 12:36-55). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Strubbe pay programming with the Lett method of purchasing pay per view programming for the purpose of providing a convenient means for the viewer to purchase programming for viewing.

As to claim 168, note the Strubbe reference discloses a system and method for automatically correlating user preferences with a T.V. program information database. The claimed “a user interface for receiving a selection of a media item from a user and for delivering a response to the selection” is met by viewer selecting a program for viewing (Strubbe 5:23-32; 5:36-42) wherein it is inherent that the system respond by displaying of the selected program. The claimed “a database for storing media items and characteristics thereof available for selection” is met by “[i]n the embodiment herein, the TV program information data records downloaded as PID as described, for example, in the references incorporated herein” (Strubbe 4:17-21). The claimed “[a database for storing] a history of selections made by the user” is met by “[m]emory section 54 is used to store as a second database, records selected from the first database which are indicated as ‘liked’ by the user...or ‘disliked’ by the user” (Strubbe 4:21-56) wherein “liked” can be indicated at the “option of the viewer, merely watching and/or recording a television program for longer than a given amount of time” (Strubbe 5:23-32) and the second database contains a text summary of each record stored (Strubbe 5:48-51). The claimed “a processor for searching available media items in the database and for presenting a recommendation of at least one media item to the user, based on a correspondence of said selection and media items in said database” is met by “CPU 50 is programmed to perform ‘free text’ search operations as detailed in the Stanfill and Kahle reference incorporated here, on data stored in one or more of the memory sections 52, 54 or 56” (Strubbe 4:13-16) wherein “the processor utilizes “free text” search techniques to correlate the TV program information with the viewer’s preferences” (Strubbe 1:67-2:2) and the viewer’s preferences comprise characteristics of media previously presented (Strubbe 4:59-5:32). Also note the Strubbe reference discloses

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pay programming (Strubbe 2:12). However, the Strubbe reference is silent as to a method for purchasing the pay programming. Now note the Lett et al. reference that discloses a method and apparatus for providing interactive electronic programming guide. The claimed “an accounting database for recording commercial transaction data relating to selections made by the user” is met by users having the option to purchase pay per view programming directly from the program guide (Lett 3:1-8) wherein “[s]ystem manager 22 accumulates the billing data from phone processor 30 and modem 32 and provides it to billing computer 24 so that customers may be billed for their program services” (Lett 4:67-5:4). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Strubbe pay programming with the Lett method of purchasing pay per view programming for the purpose of providing a convenient means for the viewer to purchase programming for viewing and method for tracking transactions for accurate billing of viewer program purchases.

As to claim 169, the claimed “wherein said media items comprise television programs” is met by “a television transmission system which provides, along with television programming, updatable TV program information which can, for example, include text summaries of the television programs scheduled for the coming week” (Strubbe 1:57-61).

The claimed “and said stored characteristics comprise a channel guide list” is met by “[b]y accessing this database, the user can display ‘Future Programs’ as well as ‘Favorite Broadcast Programs’ using a system of advanced menus and displays and an expanded channel ring” (Strubbe 2:42-49). The claimed “and television program-descriptive text accompanies said channel guide list” is met by program “information can comprise title, channel, category, day,

time, length, repeat rate etc., as well as summaries, ratings, recommendations and cost for each of the programs featured” (Strubbe 2:9-12).

As to claim 170, the claimed “wherein said recommendation presented by said processor produces a display including a list of the available media meeting a predetermined correspondence criteria on a display screen for viewing by the user” is met by “[t]his third database, could be accessed by the viewer via remote control 42, in order to allow him to select for viewing, only preferred programs which correspond either to forthcoming programs stored in the second database and indicated as ‘liked’, or programs automatically selected from the first database in the interest matcher mode described in FIG. 5” (Strubbe 5:36-42).

As to claim 171, the claimed “wherein said characteristics comprise an identification of a program type” is met by program “information can comprise title, channel, category, day, time, length, repeat rate etc., as well as summaries, ratings, recommendations and cost for each of the programs featured” (Strubbe 2:9-12).

As to claim 172, the claimed “wherein said processor controls a recording of a said media item.” Note the Strubbe reference discloses “[t]his third database, could be accessed by the viewer via remote control 42 in order to allow him to select for viewing, only preferred programs which correspond either to forthcoming programs stored in the second database...” (Strubbe 5:36-42. Further note the Strubbe reference discloses monitoring the viewer’s preferences by monitoring the programs viewed or recorded by viewers (Strubbe 5:23-32). However, the Strubbe reference does not specifically disclose “wherein said processor controls a recording of a said media item.” Now note the Lett et al. reference that discloses a method and apparatus for providing interactive electronic programming guide. The claimed “wherein said processor

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controls a recording of a said media item.” is met by the user, through the programming guide, may choose to record a selected program, the terminal will program VCR to record the program, or at least program itself to turn on and tune the proper channel when the program is available (Lett 12:19-28). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Strubbe selection of programming for viewing from a list of available television programs with the Lett et al. selection of programming for recording from a list of available television programs for the purpose of providing the user a convenient means for recording programming that they wish to view at a later time.

As to claim 173, the claimed “wherein said database stores a history of selections made by a plurality of users.” Note the Strubbe reference discloses storing information regarding a person as discussed in the rejection of claim 168. However, the Strubbe reference does not specifically disclose “wherein said database stores a history of selections made by a plurality of users.” Nevertheless, the examiner gives Official Notice that it is notoriously well known in the art that multiple person use the same television system. Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made modify the Strubbe history of selections of one person with the well known use of a television system by multiple persons for the purpose of alleviating the need for each person in a household to have their own television system and the capability of providing recommendations in regard to all persons in a household as a whole.

Conclusion

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8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The Graves et al. reference (US 5,410,344) discloses an apparatus and method of selecting video programs based on viewers' preferences.

The Amano et al. reference (US 5,585,865) discloses a television broadcast receiver which selects programs by genre and past viewing habits.

The Harrison reference (US 5,867,205) discloses a method and apparatus for controlling video/audio and channel selection for a communication signal based on textual information indicative of channel contents of a signal.

The Levitan reference (US 5,534,911) discloses a virtual personal channel in a television system.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnny Ma whose telephone number is (571) 272-7351. The examiner can normally be reached on 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jm


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